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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

JULIO ALVARADO, individually and } CASE NO. CV 06-07812 PA(RCx)  
as class representative,

**Plaintiff,**

vs.

WILLIAM J. BRATTON; LEE BACA;  
WILLIAM STONICH, Assistant Sheriff; LARRY W. WALDIE; DOYLE R. CAMPBELL, Assistant Sheriff; PAUL K. TANAKA, Assistant Sheriff; CHARLES JACKSON, Division Chief; MARC L. KLUGMAN, Division Chief individually and in their official capacities; CITY OF LOS ANGELES; CITY OF LOS ANGELES POLICE DEPARTMENT; COUNTY OF LOS ANGELES; LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

## Defendants.

CASE NO. CV 06-07812 PA(RCx)

**ANSWER OF DEFENDANTS CITY OF  
LOS ANGELES, WILLIAM J.  
BRATTON, DAVID GRIMES, ERIK  
SCHICK and MICHAEL LAMBARTH  
TO PLAINTIFF JULIO ALVARADO'S  
FIRST AMENDED COMPLAINT FOR  
INJUNCTIVE RELIEF AND  
DAMAGES:**

**DEMAND FOR JURY TRIAL**

COME NOW DEFENDANTS, **CITY OF LOS ANGELES**, a municipal entity,  
**WILLIAM J. BRATTON, DAVID GRIMES, ERIK SCHICK and MICHAEL**  
**BARTH**, answering Plaintiff's First Amended Complaint in the above-entitled  
action, for themselves alone and for no other party, hereby admit, deny, and allege as  
follows:

1                   **I. INTRODUCTION, JURISDICTION AND VENUE**

2       1. In answering paragraph 1, Defendants lack sufficient information and belief  
3 upon which to answer the allegations contained therein, and on that basis deny the  
4 allegations.

5       2. In answering paragraph 2, Defendants deny the allegations contained  
6 therein.

7       3. In answering paragraph 3, Defendants lack sufficient information and belief  
8 upon which to answer the allegations contained therein, and on that basis deny the  
9 allegations.

10      4. In answering paragraph 4, Defendants deny the allegations contained  
11 therein.

12      5. In answering paragraph 5, Defendants deny the allegations contained  
13 therein.

14                   **II. PARTIES**

15                  **A. Plaintiff**

16       6. In answering paragraph 6, Defendants lack sufficient information and belief  
17 upon which to answer the allegations contained therein, and on that basis deny the  
18 allegations.

19                  **B. Defendants**

20       7. In answering paragraph 7, Defendants admit the allegations contained  
21 therein.

22       8. In answering paragraph 8, Defendants admit the allegations contained  
23 therein.

24       9. In answering paragraph 9, Defendants lack sufficient information and belief  
25 upon which to answer the allegations contained therein, and on that basis deny the  
26 allegations.

27       ///

1       10. In answering paragraph 10, Defendants admit the allegations contained  
2 therein.

3       11. In answering paragraph 11, Defendants lack sufficient information and  
4 belief upon which to answer the allegations contained therein, and on that basis deny the  
5 allegations.

6       12. In answering paragraph 12, Defendants lack sufficient information and  
7 belief upon which to answer the allegations contained therein, and on that basis deny the  
8 allegations.

9       13. In answering paragraph 13, Defendants admit the allegations contained  
10 therein.

11       14. In answering paragraph 14, Defendants admit the allegations contained  
12 therein. admit

13       15. In answering paragraph 15, Defendants lack sufficient information and  
14 belief upon which to answer the allegations contained therein, and on that basis deny the  
15 allegations.

16       16. In answering paragraph 16, Defendants lack sufficient information and  
17 belief upon which to answer the allegations contained therein, and on that basis deny the  
18 allegations.

19       17. In answering paragraph 17, Defendants lack sufficient information and  
20 belief upon which to answer the allegations contained therein, and on that basis deny the  
21 allegations.

22       18. In answering paragraph 18, Defendants deny the allegations contained  
23 therein.

24       19. In answering paragraph 19, Defendants deny the allegations contained  
25 therein.

26       20. In answering paragraph 20, Defendants deny the allegations contained  
27 therein.

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1       21. In answering paragraph 21, Defendants deny the allegations contained  
2 therein.

3       22. In answering paragraph 22, Defendants deny the allegations contained  
4 therein.

5       23. In answering paragraph 23, Defendants deny the allegations contained  
6 therein.

7       24. In answering paragraph 24, Defendants deny the allegations contained  
8 therein.

9       25. In answering paragraph 25, Defendants deny the allegations contained  
10 therein.

11       26. In answering paragraph 26, Defendants deny the allegations contained  
12 therein.

13       27. In answering paragraph 27, Defendants deny the allegations contained  
14 therein.

15  
16                  **IV.**

17                  **THE ARREST AND BOOKING OF PLAINTIFF ON WARRANTS MEANT FOR**  
18                  **ANOTHER PERSON**

20       28. In answering paragraph 28, Defendants deny the allegations contained  
21 therein.

22       29. In answering paragraph 29, and subparagraphs A and B, Defendants deny  
23 the allegations contained therein.

24       30. In answering paragraph 30, Defendants deny the allegations contained  
25 therein.

26       31. In answering paragraph 31, Defendants deny the allegations contained  
27 therein.

28       ///

1       32. In answering paragraph 32, Defendants deny the allegations contained  
2 therein.

3       33. In answering paragraph 33, Defendants deny the allegations contained  
4 therein.

5       34. In answering paragraph 34, Defendants deny the allegations contained  
6 therein.

7       35. In answering paragraph 35, Defendants deny the allegations contained  
8 therein.

9       36. In answering paragraph 36, Defendants deny the allegations contained  
10 therein.

11       37. In answering paragraph 37, Defendants deny the allegations contained  
12 therein.

13       38. In answering paragraph 38, Defendants deny the allegations contained  
14 therein.

15       39. In answering paragraph 39, Defendants deny the allegations contained  
16 therein.

17       40. In answering paragraph 40, Defendants deny the allegations contained  
18 therein.

19       41. In answering paragraph 41, Defendants deny the allegations contained  
20 therein.

21       42. In answering paragraph 42, Defendants deny the allegations contained  
22 therein.

23       43. In answering paragraph 43, Defendants deny the allegations contained  
24 therein.

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**FIRST CAUSE OF ACTION**  
**(Fourth Amendment/42 U.S.C. §1983)**  
**(Against all Defendants)**

44. In answering paragraph 44, Defendants deny the allegations contained therein.

**SECOND CAUSE OF ACTION**  
**(Fourteenth Amendment/42 U.S.C. §1983)**  
**(Against all Defendants)**

45. In answering paragraph 45, Defendants deny the allegations contained therein.

**THIRD CAUSE OF ACTION – WRONGFUL ARREST/DETENTION UNDER  
THE CALIFORNIA STATE CONSTITUTION  
(California Constitution, Article I, §13)  
(Against all Defendants)**

46. In answering paragraph 46, Defendants deny the allegations contained therein.

47. In answering paragraph 47, Defendants deny the allegations contained  
therin.

**FOURTH CAUSE OF ACTION – CAL. CIVIL CODE § 52.1**  
**(Against Defendants City, County, LAPD and LASD only)**

48. In answering paragraph 48, Defendants deny the allegations contained therein.

49. In answering paragraph 49, Defendants deny the allegations contained therein.

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1                   **FIFTH CAUSE OF ACTION – FALSE IMPRISONMENT**

2                   **(Against Defendants City, County, LAPD and LASD only)**

3       50. In answering paragraph 50, Defendants deny the allegations contained  
4 therein.

5       51. In answering paragraph 51, Defendants deny the allegations contained  
6 therein.

7                   **SIXTH CAUSE OF ACTION – INJUNCTIVE ACTION**

8                   **(Against Defendants City, County, LAPD, Baca and Bratton only)**

9       52. In answering paragraph 52, Defendants deny the allegations contained  
10 therein.

11      53. In answering paragraph 53, Defendants deny the allegations contained  
12 therein.

13      54. In answering paragraph 54, Defendants deny the allegations contained  
14 therein.

15      55. In answering paragraph 55, Defendants deny the allegations contained  
16 therein.

17      56. In answering paragraph 56, Defendants deny the allegations contained  
18 therein.

20                   **AFFIRMATIVE DEFENSES**

21                  As separate and distinct affirmative defenses, Defendants **CITY OF LOS**  
22 **ANGELES, WILLIAM J. BRATTON, DAVID GRIMES, ERIK SCHICK and**  
23 **MICHAEL LAMBARTH** allege each of the following:

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25      ///

1                   **FIRST AFFIRMATIVE DEFENSE**

2       1. The damages alleged were directly and proximately caused and contributed  
3 to by the negligence of Plaintiff, and the extent of damages sustained, if any, should be  
4 reduced in proportion to the amount of said negligence.

5

6                   **SECOND AFFIRMATIVE DEFENSE**

7       2. The damages alleged were directly and proximately caused and contributed  
8 to by the negligence of other persons, and the extent of damages sustained, if any,  
9 should be reduced in proportion to the amount of said negligence.

10

11                  **THIRD AFFIRMATIVE DEFENSE**

12      3. Plaintiff had actual knowledge of the condition and particular danger  
13 alleged, knew and understood the degree of the risk involved, and voluntarily assumed  
14 such risk.

15

16                  **FOURTH AFFIRMATIVE DEFENSE**

17      4. The force used against Plaintiff, if any, was caused and necessitated by the  
18 actions of Plaintiff, and was reasonable and necessary for self defense.

19

20                  **FIFTH AFFIRMATIVE DEFENSE**

21      5. The force used against Plaintiff, if any, was caused and necessitated by the  
22 actions of Plaintiff, and was reasonable and necessary for the defense of others.

23

24                  **SIXTH AFFIRMATIVE DEFENSE**

25      6. The Complaint fails to state a cause of action due to applicable statute of  
26 limitations.

27      ///

1                   **SEVENTH AFFIRMATIVE DEFENSE**

2       7.     The state claims are barred for Plaintiff's failure to comply with the  
3 provisions of the California Tort Claims Act, *Government Code* § 910 *et seq.*

5                   **EIGHTH AFFIRMATIVE DEFENSE**

6       8.     The action is barred for lack of standing to sue.

8                   **NINTH AFFIRMATIVE DEFENSE**

9       9.     The action is barred by the doctrine of res judicata.

11                  **TENTH AFFIRMATIVE DEFENSE**

12      10.    Defendants' actions are privileged pursuant to Civil Code § 47.

14                  **ELEVENTH AFFIRMATIVE DEFENSE**

15       11.    As to the federal claims and theories of recovery, these answering  
16 Defendants are protected from liability under the doctrine of qualified immunity,  
17 because Defendants' conduct did not violate clearly established statutory or  
18 constitutional rights of which a reasonable person would have known.

20                  **TWELFTH AFFIRMATIVE DEFENSE**

21       12.    These answering Defendants are immune from liability for all damages  
22 sustained after the prosecutor initiated criminal charges, pursuant to *Smiddy v. Varney*,  
23 803 F.2d 1469 (9th Cir. 1986), and *Jackson v. City of San Diego*, 121 Cal.App.3d 579  
24 (1981).

26                  **THIRTEENTH AFFIRMATIVE DEFENSE**

27       13.    As to the federal claims and theories of recovery, these answering  
28 Defendants are protected from liability under the doctrine of witness immunity.

1                   **FOURTEENTH AFFIRMATIVE DEFENSE**

2       14. Defendant City of Los Angeles and all Defendants sued in their official  
3       capacities are immune from the imposition of punitive damages.

4

5                   **FIFTEENTH AFFIRMATIVE DEFENSE**

6       15. Defendants are immune from liability pursuant to the provisions of each of  
7       the following California statutes, each of which is set forth as a separate and distinct  
8       affirmative defense:

9                   Government Code §§ 815.2; 818; 820.2; 820.4; 820.8; 845.8

10                  Civil Code §§ 43.55;

11                  Penal Code §§ 836; 836.5 and 847.

12

13                   **SIXTEENTH AFFIRMATIVE DEFENSE**

14       16. This action should be stayed pursuant to *Wallace v. Kato*, 549 U.S. 384  
15       (2007), and *California Government Code* §945.3.

16                   **SEVENTEENTH AFFIRMATIVE DEFENSE**

17       17. Plaintiffs federal claims are barred by *Baker v. McCollan*, 443 U.S. 137, 61  
18       L.Ed.2d 433, 99 S.Ct. 2689 (1979).

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20                   **EIGHTEENTH AFFIRMATIVE DEFENSE**

21       18. Defendants reserve the right assert additional affirmative defenses at the  
22       appropriate time.

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